

In re: Nguyen et al.  
Serial No. 09/207,945  
Filed: December 9, 1998  
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Applicants Rule 131 Declarations submitted on October 28, 2002 clearly establish that the subject matter of Claims 1-4, 6-13, 15-17, 19-23, 25-32, 34-36, 38-42, 44-51, 53-55 and 57 of the present patent application was conceived prior to the December 8, 1998 filing date of Chan. Invention Disclosure RSW8-1998-0144 (hereinafter, the "Invention Disclosure") *on its face* clearly establishes that conception of the present invention occurred prior to the December 8, 1998 filing date of Chan. In particular, on page 2 of the Invention Disclosure, it is stated that the invention was "workable" on June 7, 1998. The term "workable" is defined in the Invention Disclosure as *when it is known by the inventors that the invention will solve the problem stated in the invention disclosure.*

Submitted herewith is a Rule 131 Declaration of the undersigned attorney. The facts set forth therein clearly establish that Inventors Nguyen and Singhal conceived the subject matter of Claims 1-4, 6-13, 15-17, 19-23, 25-32, 34-36, 38-42, 44-51, 53-55 and 57 of the above-referenced application and diligently proceeded with constructively reducing to practice the subject matter of Claims 1-4, 6-13, 15-17, 19-23, 25-32, 34-36, 38-42, 44-51, 53-55 and 57 prior to December 8, 1998. The Invention Disclosure was created on July 31, 1998, submitted to IBM in-house patent attorney Bruce Clay on August 4, 1998, and then submitted to the undersigned attorney's firm for preparation of the above-referenced patent application on October 7, 1998. An initial draft of the above-referenced patent application was prepared by the undersigned attorney and submitted to Inventors Nguyen and Singhal on November 25, 1998, and the final draft of the above-referenced patent application was filed in the United States Patent and Trademark Office on December 9, 1998.

Accordingly, Chan is not prior art against Claims 1-4, 6-13, 15-17, 19-23, 25-32, 34-36, 38-42, 44-51, 53-55 and 57, because Chan was not filed in the United States before the invention thereof by the Applicants for patent as required to qualify as prior art. Applicants, therefore, request that the rejections of Claims 1-4, 6-13, 15-17, 19-23, 25-32, 34-36, 38-42, 44-51, 53-55 and 57 under 35 U.S.C. §103(a) be withdrawn.

It is not believed that an extension of time is required. In the event, however, that an extension of time is necessary, such an extension is hereby petitioned under 37 C.F.R. §1.136(a). Any additional fees believed to be due in connection herewith are hereby authorized to be charged to IBM Deposit Account No. 09-0461.

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Conclusion

In view of the above, it is respectfully submitted that this application is in condition for allowance, which action is respectfully requested.

Respectfully submitted,



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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence is being sent via facsimile to Group Art Unit 2178 at (703) 746-7238 at Commissioner for Patents, Washington, DC 20231, on January 3, 2003.

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Michele P. McMahan      Date of Signature: January 3, 2003